

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION TWO

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THE STATE OF ARIZONA,  
*Respondent,*

*v.*

SKY FINDLAY,  
*Petitioner.*

No. 2 CA-CR 2018-0198-PR  
Filed October 24, 2018

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THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND  
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.  
NOT FOR PUBLICATION  
*See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.19(e).*

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Petition for Review from the Superior Court in Pima County  
Nos. CR20163567001 and CR20142318001  
The Honorable Teresa Godoy, Judge Pro Tempore

**REVIEW GRANTED; RELIEF DENIED**

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COUNSEL

Harold L. Higgins PC, Tucson  
By Harold Higgins  
*Counsel for Petitioner*

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**MEMORANDUM DECISION**

Chief Judge Eckerstrom authored the decision of the Court, in which Presiding Judge Staring and Judge Brearcliffe concurred.

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E C K E R S T R O M, Chief Judge:

¶1 Sky Findlay seeks review of the trial court’s order summarily denying his petition for post-conviction relief filed pursuant to Rule 32, Ariz. R. Crim. P. We will not disturb that order unless the court abused its discretion. *See State v. Roseberry*, 237 Ariz. 507, ¶ 7 (2015). Findlay has not demonstrated such abuse here.

¶2 In 2014, Findlay pled guilty to indecent exposure and failing to obtain an identification or driver license by a person required to register pursuant to A.R.S. § 13-3821. The trial court suspended the imposition of sentence and placed Findlay on concurrent, three-year probation terms. In 2017, he pled guilty to child molestation and indecent exposure to a minor under the age of fifteen. The court revoked Findlay’s probation and imposed concurrent, one-year prison terms for his 2014 offenses. For the later offenses, the court imposed concurrent prison terms, the longer of which was ten years, to run consecutive to the sentences imposed for his earlier offenses.

¶3 Findlay sought post-conviction relief, arguing that *May v. Ryan*, 245 F. Supp. 3d 1145 (D. Ariz. 2017),<sup>1</sup> constituted a significant change in the law applicable to his case and that his plea was involuntary because he did not understand the sentence he could face. The trial court summarily denied relief, concluding that *May* was contrary to Arizona law and not binding on Arizona courts and that Findlay had been advised at his change-of-plea hearing of the correct sentencing range and had stated “with no signal of equivocation” that he understood it.

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<sup>1</sup>In *May*, a federal trial court determined that A.R.S. §§ 13-1407(E) and 13-1410 unconstitutionally shifted the burden of proof to the defendant because, by making the lack of sexual motivation an affirmative defense to child molestation, they required him to disprove an element of the offense, namely “sexual intent.” 245 F. Supp. 3d at 1154-56, 1164.

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¶4 On review, Findlay repeats his claims. We have reviewed the record and conclude the trial court correctly rejected them in a thorough and well-reasoned minute entry, which we accordingly adopt. *See State v. Whipple*, 177 Ariz. 272, 274 (App. 1993).

¶5 We grant review but deny relief.